

A RESOLUTION BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION & COMMITTEE

A RESOLUTION AUTHORIZING THE SETTLEMENT OF ALL CLAIMS OF THOMAS C. BRUSINO AGAINST THE CITY OF ATLANTA, IN THE CASE OF THOMAS C. BRUSINO V. THE CITY OF ATLANTA, CIVIL ACTION NUMBER: 99VS0149138, FILED IN THE STATE COURT OF FULTON COUNTY; TO CAUSE PAYMENT TO BE MADE IN THE AMOUNT OF TEN THOUSAND DOLLARS (\$10,000.00); AND FOR OTHER PURPOSES.

WHEREAS, on April 28, 1998, Plaintiff Thomas C. Brusino initiated the case of <u>Thomas C. Brusino v. City of Atlanta</u>, in the Magistrate Court of Fulton County, claiming that the City breached its contract to pay him additional wages for working out of class during each year from 1995 through the present; and

WHEREAS, since 1995, Thomas Brusino has worked in higher classified positions as an FAO and/or for captain for more than fifteen (15) shifts and was not paid extra compensation for doing so; and

WHEREAS, the City of Atlanta Code Section 114-134 provides that a City employee shall receive compensation for work in a higher classified position when an employee performs duties of a higher classified position for a period of time in excess of thirty (30) work days; and

WHEREAS, firefighters in the field work a schedule of twenty-four (24) hours on, 48 hours off; and

WHEREAS, the Fire Department equates one 24-hour tour to two twelve-hour shifts; and WHEREAS, a firefighter is not entitled to additional compensation for working out of class until he works fifteen consecutive shifts in the higher classified position; and

WHEREAS, in both 1993 and 1994, Brusino worked out of class as a fire captain and/or of for more than fifteen (15) shifts and was paid extra compensation for doing so; and

WHEREAS, the Magistrate Court entered judgment in favor of the plaintiff in September 10, 1998; and

WHEREAS, Defendant City of Atlanta, appealed the decision to the State Court of Fulton County, and thereafter filed a Motion for Summary Judgment; and

WHEREAS, the Court denied Defendant's Motion for Summary Judgment; and WHEREAS, Plaintiff, through his attorney, has agreed to settle all claims of Plaintiff against the City of Atlanta for the sum of TEN THOUSAND DOLLARS (\$10,000.00); and

WHEREAS, the City Attorney considers it to be the best interest of the City to resolve this matter and recommends that the above settlement be entered into; and

WHEREAS, by this settlement, Defendant City of Atlanta admits no liability; and THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY RESOLVES that the City Attorney be and is hereby authorized to conclude the settlement of all claims against the City of Atlanta, as set forth in Civil Action No.: 99VS0149138, State Court of Fulton County, for the aggregate amount of TEN THOUSAND DOLLARS (\$10,000.00).

THE CITY COUNCIL FURTHER RESOLVES that the Chief Financial Officer is authorized to pay the total of TEN THOUSAND DOLLARS (\$10,000.00) at the direction of the City Attorney from the account of 1A01529017T31001. Payment shall be in the form of a check in the amount of TEN THOUSAND DOLLARS (\$10,000.00), payable to Plaintiff Thomas C. Brusino and his attorney Michael C. Murphy.

ADOPTED by the City Council APPROVED by the Mayor

March 17, 2003 March 25, 2003

A true copy,

Deputy Clerk

Atlanta City Council

Regular Session

CONSENT I Pgs. 1-11; Except 03-0-0219; 03-0-0323 03-0-0220; 03-0-0221 ADOPT

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

Y Smith Y Archibong Y Moore Y Mitchell Y Starnes Y Fauver B Martin Y Norwood NV Young Y Shook Y Maddox Y Willis Y Winslow Y Muller NV Boazman NV Woolard

3/17/03 FU	LL COUNCIL	MEETING
Items Adopted	d on the	Items Adversed on the Consent
Consent Agen	da	Agenda
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1. 03-O-0408	36. 03-R-0329	45. 03-R-0336
2. 03-O-0392	37. 03-R-0330	46. 03-R-0337
3. 03-O-0305	38. 03-R-0331	47. 03-R-0338
4. 03-O-0380	39. 03-R-0332	48. 03-R-0339
5. 03-O-0388	40. 03-R-0333	49. 03-R-0340
6. 03-O-0234	41. 03-R-0334	50. 03-R-0341
7. 03-O-0228	42. 03-R-0335	51. 03-R-0342
8. 03-O-0229	43. 03-R-0347	52. 03-R-0343
9. 03-O-0385	44. 03-R-0415	53. 03-R-0344
10. 03-O-0386		54. 03-R-0345
11. 03-R-0348		
12. 03-R-0349		
13. 03-R-0351		
14. 03-R-0352		
15. 03-R-0597 16. 03-R-0353		
17. 03-R-0354		
18. 03-R-0394 18. 03-R-0190		
19. 03-R-0346		
20. 03-R-0361		
21. 03-R-0417		
22. 03-R-0356		
23. 03-R-0357		
24. 03-R-0358		
25. 03-R-0370		
26. 03-R-0371		
27. 03-R-0372		
28. 03-R-0373		
29. 03-R-0374		
30. 03-R-0383		
31. 03-R-0387		
32. 03-R-0325		
33. 03-R-0326		
34. 03-R-0327		
35. 03-R-0328		

Consent I Vote: 12Yeas; 0 Nays: (See RCS #4538)
Items Removed from the Consent Agenda: 03-O-0219; 03-O-0323; 03-O-0220; & 03-O-0221

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11:11			Date Referred
MAR 2 5 2003	Members	Members	
MAYOR'S ACTION	Action Fav, Adv, Hold (see rev. side) Other	Action Fav, Adv, Hold (see rev. side) Other	REGULAR REPORT REFERADVERTISE & REFER1st ADOPT 2nd READ & REFER
MICHICIPAL OLDINA	Chair	Chair	O CONSENT REFER
Rock Dinghing & house	Date	Date	
MAR 1. 7 2003	Committee	Committee	COUNCIL
	Refer To	Refer To	Linda K. DiSantis City Attorney MAR 1 7 2003
		Chaka Minusking	APPROVED:
ATLANTA CITY COUNCIL PRESIDENT			AMOUNT OF TEN THOUSAND DOLLARS (\$10,000.00); AND FOR OTHER PURPOSES.
	manipala		OF FULTON COUNTY;
MAR 1 7 2003	Members	Members	BRUSINO V. THE CITY OF ATLANTA, CIVIL ACTION NUMBER: 99VS0149138, FILED IN
	Fav, Adv, Hold (see rev. side) Other	(Fav. dv, Hold (see rev. side) Other	C. BRUSINO AGAINST THE CITY OF ATLANTA, IN THE CASE OF THOMAS C.
	Action	Action	A RESOLUTION AUTHORIZING THE SETTLEMENT OF ALL CLAIMS OF THOMAS
	Chair	2/2/2	AINISTRATION COMMITTEE
CERTIEIED	Committee	10	A RESOLUTION BY PUBLIC SAFETY AND LEGAL
Consent UV Vote CHC Vote	Committee		C
Readings		Chair Chair	(Do NO Brite Rooks Type Linge)
INAL COUNCIL ACTION	eading	CommitteeFirst Reading	